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Date Opposition due: TBD
Date of Hearing: TBD

*Attorneys for Plaintiffs Susanne Stone Marshall, Adele
Fox, Marsha Peshkin, and Russell Oasis, Individually
and on behalf of a class of similarly situated Plaintiffs*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-1789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

SUSANNE STONE MARSHALL, ADDELE FOX,
MARSHA PESHKIN, and RUSSELL OASIS,

Plaintiffs,

v.

CAPITAL GROWTH COMPANY; DECISIONS,
INC.; FAVORITE FUNDS; JA PRIMARY LIMITED
PARTNERSHIP; JA SPECIAL LIMITED
PARTNERSHIP; JAB PARTNERSHIP; JEMW
PARTNERSHIP; JF PARTNERSHIP; JFM

Adv. Pro. No. 15-01293 (SMB)

INVESTMENT COMPANIES; JLN PARTNERSHIP;
JMP LIMITED PARTNERSHIP; JEFFRY M.
PICOWER SPECIAL COMPANY; JEFFRY M.
PICOWER, P.C.; THE PICOWER FOUNDATION;
THE PICOWER INSTITUTE OF MEDICAL
RESEARCH; THE TRUST F/B/O GABRIELLE H.
PICOWER; BARBARA PICOWER, individually, and
as Executor of the Estate of Jeffry M. Picower, and as
Trustee for the Picower Foundation and for the Trust
f/b/o Gabrielle H. Picower; and IRVING H. PICARD,
Trustee for the Liquidation of Bernard L. Madoff
Investment Securities LLC,

Defendants.

**DECLARATION OF HELEN DAVIS CHAITMAN
IN SUPPORT OF PLAINTIFFS' MOTION TO STRIKE**

Helen Davis Chaitman, declares and says, pursuant to 28 U.S.C. § 1746 as follows:

1. I am a partner of the law firm of CHAITMAN, LLP, counsel to Plaintiffs in the captioned matter. I submit this declaration in support of Plaintiffs' request for an order to show cause striking Defendants' letter submissions of January 28, 2016, and to put before the exhibits attached to Plaintiffs' Motion to Strike.

2. This application arises out of a motion by Plaintiffs for a declaratory judgment. Pursuant to a stipulation and order entered on or about September 30, 2015, ECF No. 16, all briefing was to be completed with Plaintiffs' submission of reply papers on or before January 15, 2016, with a hearing to be held on January 27, 2016.

3. Plaintiffs timely filed their reply papers on January 14, 2016. The Court then postponed the hearing until February 11, 2016, ECF No. 30.

4. On January 28, 2016, each of the Defendants' counsel sent a letter to the Court asking it to strike one of the exhibits submitted with Plaintiffs' reply papers, a declaration from Bernard L Madoff, or to disregard it as irrelevant or otherwise give it no weight on Plaintiffs' motion. They styled these letters as a request to file a "surreply" but in that "request" they extensively argued the merits of the underlying motion for a Declaratory Judgment.

5. Defendants neither sought nor obtained Plaintiffs' consent to their filing these letter briefs.

6. Plaintiffs bring this application to strike such letters by order to show cause because it is imperative that this motion be resolved before the hearing on February 11, 2016, so that the parties will know what issues are properly before the Court. This might not be possible if Plaintiffs proceeded by ordinary motion.

7. Plaintiffs understand the Court is holding hearings on February 9, 2016, and if the Court is inclined to hold a hearing on this matter, rather than resolve it on the papers, Plaintiffs respectfully request that the hearing be held that date, so that the issues raised here can be addressed prior to the February 11, 2016, hearing on the underlying motion for a Declaratory Judgment.

8. Annexed hereto as Exhibit A is Defendant Picowers Parties' January 28, 2016, letter to the Court.

9. Annexed hereto as Exhibit B is Defendant Irving H. Picard's January 28, 2016, letter to the Court.

10. Annexed hereto as Exhibit C is letter endorsement dated July 1, 2014.

11. No prior application for the relief here sought has been made.

WHEREFORE, Plaintiffs respectfully request that their motion to strike be granted in its entirety.

January 29, 2016

s/ Helen Davis Chaitman